

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

EDUARDO REYES NEPOMUCENO,

Plaintiff,

-against-

COLUMBIA DELI & GRILL INC. et al.,

Defendants.

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 7/21/2022

19-cv-3150 (MKV-RWL)

ORDER

MARY KAY VYSKOCIL, United States District Judge:

In an Order dated October 7, 2021, the Court granted defense counsel's motion to withdraw from representation of Defendant Mr. Algaad, requested that the Clerk of Court mark Mr. Algaad as a *pro se* litigant, and directed Mr. Algaad to file any opposition to Plaintiff's pending motion for partial summary judgment by November 1, 2021 [ECF No. 110]. To date, Mr. Algaad has not filed an opposition. However, because Mr. Algaad is proceeding *pro se*, the Court will grant him one final opportunity to file an opposition before the Court rules on the motion.

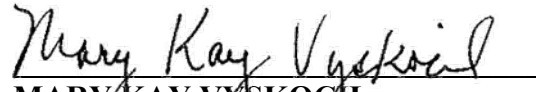
IT IS HEREBY ORDERED that Mr. Algaad shall file any opposition to Plaintiff's motion for partial summary judgment by August 12, 2022. Mr. Algaad is on notice that he must respond by affidavit, or as otherwise provided in Rule 56 of the Federal Rules of Civil Procedure, setting forth specific facts showing that there is a genuine issue of material fact for trial. *See Irby v. N.Y. City Transit Auth.*, 262 F.3d 412, 413–14 (2d Cir. 2001). If Mr. Algaad fails to meet the August 12, 2022 deadline to file an opposition, the Court will consider Plaintiff's motion unopposed and, therefore, the Court will accept as undisputed the factual propositions in the affidavits or other documentary evidence submitted by Plaintiff in support of his motion for partial summary judgment [ECF Nos. 102, 103, 104]. *See id.*

IT IS FURTHER ORDERED that any reply in further support of Plaintiff's motion is due August 19, 2022.

The Clerk of Court respectfully is requested to mail a copy of this Order to Defendant Mr. Algaad. The Court encourages Mr. Algaad to consent to receive case filings electronically. *See* <https://nysd.uscourts.gov/forms/consent-electronic-service-pro-se-cases>.

**SO ORDERED.**

**Date: July 21, 2022**  
**New York, NY**

  
**MARY KAY VYSKOČIL**  
**United States District Judge**